


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q77992	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	10/699,799	November 4, 2003	
	First Named Inventor		
	Kazuo HIRAGUCHI		
	Art Unit	Examiner	
	3654	Scott J. HAUGHLAND	
WASHINGTON OFFICE <b>23373</b> CUSTOMER NUMBER			
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal			
The review is requested for the reasons(s) stated on the attached sheet(s).			
Note: No more than five (5) pages may be provided.			
<input checked="" type="checkbox"/> I am an attorney or agent of record.			
Registration number		59,043	
		 Signature	
		Mark E. Wallerson Typed or printed name	
		(202) 293-7060 Telephone number	
		February 8, 2007 Date	

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q77992

Kazuo HIRAGUCHI

Appl. No.: 10/699,799

Group Art Unit: 3654

Confirmation No.: 4014

Examiner: Scott J. HAUGHLAND

Filed: November 4, 2003

For: RECORDING TAPE CARTRIDGE

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**MAIL STOP AF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated November 8, 2006, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over LeNoue in view of Maehara.

Claim 1 and analogous claim 11 define in part a recording tape cartridge comprising an arc-shaped door slidably disposed within a case and which is operative to move in an open and closed position while within the case, and which is operative to block an opening for pulling out the recording tape, and wherein at least one of a border portion between an outermost peripheral wall and a ceiling plate and a border portion between the peripheral wall and a floor plate is thinner than a thickness of the peripheral wall.

The rejection of claim 1 and analogous claim 11 is in error because the cited references, whether taken alone or in combination, do not teach or suggest all of the features of the claims. In particular, LeNoue or Maehara do not teach or suggest, individually or in combination “an arc shaped door slidably disposed within the case and which is operative to move in an open and closed position while within the case, and which is operative to block an opening for pulling out the recording tape,” as recited in claim 1 and analogously claimed in claim 11.

In the grounds of rejection, the Examiner asserts that:

[T]he door 16 in LeNoue is movable between open and closed positions while in the case, i.e., before being fully removed from the case during tape withdrawal or before reaching its final position in the cartridge during tape winding.<sup>1</sup>

However, there is simply no disclosure in LeNoue of “an arc-shaped door slidably disposed within the case and which is operable to move in an open and closed position **while within the case**” (emphasis added) as claimed.

It is well settled that claim interpretation is not conducted in a vacuum. “It is axiomatic that, in proceedings before the PTO, claims in an application are given their broadest reasonable interpretation consistent with the specification, and that claim language should be read in the light of the specification as it would be interpreted by one of ordinary skill in the art.” In re Bond, 910 F.2d 831, 833, 15 U.S.P.Q.2d 1566, 1568 (Fed. Cir. 1990), citing In re Snead, 710 F.2d 1544, 1548, 218 U.S.P.Q. 385, 388 (Fed. Cir. 1983).

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<sup>1</sup> Page 4 of the Office Action dated November 8, 2006.

One of ordinary skill in the art would certainly not consider the leader block 16 of LeNoue to be a door slidably disposed within the case and operable to move in an open and closed position **while within the case**. Even if *arguendo*, one were to interpret the leader block 16 as a door (which Applicant does not admit), LeNoue discloses that when the leader block 16 is snapped into the window 22, the window 22 is covered (column 3, lines 13-14). This clearly indicates that, the leader block does not slide while within the case as claimed.

Further, there is no teaching or suggestion in the cited references that “a border portion between an outermost peripheral wall and a ceiling plate and a border portion between the peripheral wall and a floor plate is thinner than a thickness of the peripheral wall” as recited in independent claim 1 and analogous claim 11. The Examiner acknowledges this deficiency<sup>2</sup>, but alleges:

LeNoue teaches making border portions (associated with grooves 74) between a vertical wall and a ceiling or floor plate of a cartridge case thinner than the vertical walls to prevent deformation of the cartridge case during cooling immediately after molding by eliminating excess wall thickness at intersections. It would be clear to an ordinary artisan that this teaching would be applicable to other wall intersections where thickening would be present in the absence of grooves such as 74 and it would have been obvious to apply the teaching to the intersections between peripheral walls and the floor and ceiling plates to prevent deformation of the case in those areas.<sup>3</sup>

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<sup>2</sup> Page 4 of the Office Action dated November 8, 2006.

<sup>3</sup> Page 4 of the Office Action dated November 8, 2006.

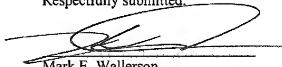
Applicant respectfully submits that such a conclusion could be based only on impermissible hindsight. Nothing in the prior art suggests the desirability, and, thus the obviousness, of making this modification. There is absolutely no teaching in LeNoue that the groove 74 is located at the **border** between the **peripheral** wall and the ceiling or floor plate. In fact, LeNoue discloses that the groove 74 is located on a rib 72 which is formed on the inner surface of the lower wall 48. Accordingly, groove 74 is not associated with a border portion.

Accordingly, claims 1 and 11 should be allowable over LeNoue and Maehara, because the cited references do not teach or suggest all of the features of the claim. Claims 2-10 and 12-22 should also be allowable at least based on their dependency on independent claims 1 and 11.

### Conclusion

For at least the foregoing reasons, the rejection of claims 1-22 is improper. Accordingly, reversal of the Examiner's rejection of these claims is requested.

Respectfully submitted,



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